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SUBJECT: LESOTHO: 2008 TRAFFICKING IN PERSONS REPORT SUBMISSION

REF: STATE 2731

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1. (U) SUMMARY: Following extensive interviews with local experts, law enforcement officials, and members of Lesotho's civil society, post has not identified a substantiated case of trafficking in persons in the Kingdom of Lesotho. In drafting this report, sources informed post of a case involving an Ethiopian woman in Lesotho who claimed abuse by her employer; this is an on-going legal case, however, in which key facts are still being established in Lesotho's courts. There are large numbers of Basotho living legally and illegally in neighboring South Africa, which completely surrounds Lesotho, mostly as economic migrants who have crossed the porous border. This population may be vulnerable to exploitation while in transit or once within South Africa; however, post's sources had no concrete information regarding organized trafficking and are not aware of any outstanding cases involving Basotho victims in South Africa. There are no NGOs in Lesotho that work exclusively or specifically with trafficking victims. Lesotho is a least development country and its only international flight connections are directly to and from South Africa (where wage levels are much higher). There is, therefore, no economic incentive for trafficked persons, or traffickers, to identify Lesotho as a final destination. END SUMMARY.

2. (SBU) Post's primary sources (PROTECT) for this report are Inspector Thosa, Child and Gender Protection Unit (CGPU); Superintendent Thabang Letsie, Lesotho Mounted Police Service (LMPS) Criminal Investigation Division (LMPS); Pulane Lechesa, Legal Officer, Directorate of Legal Affairs in the Ministry of Foreign Affairs; Mookho Thahane, Child Protection and Advocacy Officer, World Vision; Sisters Lylian Mphutlane and Bathilda Heqoa, Elizabeth Catholic Church; Flora Gitari, Country Director a.i., and Sechaba Mokhameleli, Program Officer, Action Aid; T'seli Shale and `Mats'epang Mokatse, Programs Managers, Lesotho Save the Children; Palesa Montsi, Inter-Governmental Ministerial UNESCO Committee on Human Trafficking; Lydia `Muso, Lesotho Child Counseling Unit (LCCU); and Teboho Nthlakana, Ministry of Justice and Human Rights. None of these sources, with the exception of the LMPS in the case of a particular case cited in paragraph 3 below, were able to identify a case of trafficking in persons as defined reftel. These sources, however, did report rumors of undocumented cases of migrant smuggling of Basotho into South Africa, and that some of those smuggled may have become commercial sex workers.

Response to Questions

Below are the responses to questions posed reftel regarding the trafficking in persons situation in Lesotho.

OVERVIEW

13. Is the country a country of origin, transit or destination for international trafficked men, women, or children?

Lesotho is a least development country completely landlocked by South Africa. It shares a long and porous border with South Africa, and its only international flight connections are directly to and from Johannesburg (where wage levels are much higher). There is, therefore, no economic incentive for trafficked persons, or traffickers, to identify Lesotho as a final destination. However, members of Lesotho's police service have discussed with Embassy staff suspicions of Lesotho serving as a transit point for South and East Asians being smuggling into South Africa. It is unknown whether any of these individuals were victims of trafficking.

Only one official case currently in Lesotho which appears related to trafficking. This is an on-going legal case in which key facts are still being established in Lesotho's courts.

An Ethiopian woman residing illegally in Lesotho contacted the Ethiopian Embassy in Pretoria to claim that she was abused by the Ethiopian family with whom she was residing in Lesotho. She indicated that she was forced to work long hours and was physically assaulted by the female owner of the house. Lesotho's Police Criminal Investigation Division launched an investigation after being contacted by the Ethiopian Embassy in South Africa. Police established that the complainant had entered Lesotho illegally and did not have a passport, residence permit, or work permit. She claimed that her passport was taken by her employer and subsequently stolen in a burglary.

The Ethiopian worker stated to police that she had come to Lesotho voluntarily. As Lesotho has no specific law defining trafficking as a criminal offense, the police charged the family as well as the women claiming abuse of violation the Aliens Control Act and the Labor Law. During their investigation,

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police also found out that members of the accused family had made periodic bank deposits to the accuser's account which they stated was payment for her services. On February 16, 2008, the police informed post that they were awaiting news of a financial settlement between the two parties before they take further action.

PREVENTION

14. Which government agencies are involved in anti-trafficking efforts?

Lesotho's Ministry of Home Affairs and Public Safety; the Lesotho Mounted Police Service (including the LMPS's Child and Gender Protection Unit); the Ministry of Justice's Human Rights Unit; the Ministry of Education and Training; the Ministry of Gender, Youth and Sports; and the Ministry of Labor and Employment are each involved to varying degrees in any reported anti-trafficking efforts. These government agencies cooperate with the local UNICEF and UNESCO offices to address reports of child prostitution, which is thought to be a poverty-driven phenomenon and not the product of organized criminal syndicates.

15. How reliable are statistics regarding trafficking and what are their sources?

Due to Lesotho's lack of legislation on trafficking issues, official information and official records on the issue are not maintained.

16. Are there or have there been any government-run anti-trafficking public information or public education campaigns?

Not specifically on anti-trafficking. An inter-sectoral committee made up of government ministries and NGOs has held public gatherings on human rights which have addressed trafficking issues. Some local and international NGOs have conducted public awareness campaigns on human trafficking.

¶17. Does the government support other programs to prevent trafficking?

While intended to address economic empowerment rather than human trafficking, the government's ongoing incremental implementation of free primary level education (completed in 2006) has the effect of expanding school enrollment and attendance, which in turn reduces the opportunities for child trafficking.

The U.S. Government conducts occasional programs to raise awareness of trafficking and diminish its

¶18. What is the relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue?

The GOL generally has a good operational relationship with Lesotho's civil society, although traditional tensions between governing and opposition political parties can in some cases limit collaboration. On trafficking issues, however, the GOL remains receptive and open to interaction and cooperation with civil society.

¶19. Does the government adequately monitor its borders?

Lesotho's control of its border is generally considered inadequate. Lesotho is entirely surrounded by South Africa, and the border is comprised of rivers and rugged and mountainous terrain, making its monitoring and patrolling difficult. Criminal elements take advantage of the nation's porous borders to conduct smuggling of livestock, small weapons, vehicles, and marijuana.

¶10. Is there a mechanism for coordination and communication between various agencies, internal, international, and multilateral on trafficking-related matters, such as a multi-agency working group or a task force? Does the government have a trafficking in persons working group or single point of contact? Does the government have a public corruption task force?

UNESCO and representatives from relevant GOL ministries established an inter-ministerial committee with the intention of conducting research and creating awareness on human trafficking. Lesotho's civil society, however, often criticizes the effectiveness of this committee. The International Organization for Migration (IOM) and UNICEF also liaise with the GOL and various NGOs to promote anti-trafficking efforts.

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INVESTIGATION AND PROSECUTION OF TRAFFICKERS

¶11. Does the country have a law specifically prohibiting trafficking in persons - both trafficking for sexual exploitation and trafficking for non-sexual purposes (e.g. forced labor)?

The country does not have legislation specifically addressing trafficking in persons and has not enacted any such legislation since the most recent TIP report. An existing law, however, does prohibit the procurement of women or girls for the purpose of prostitution. Traffickers could be charged under Lesotho's statutes pertaining to abduction or kidnapping. The GOL generally supports women's rights, and all citizens are constitutionally guaranteed freedom from slavery and forced labor. The constitution stipulates that "no person shall be held in slavery or servitude."

The Child Protection Act of 1980 and the Sexual Offenses Act of 2003 can be used to prosecute offenders, but do not sufficiently address issues of human trafficking. The Child Protection and Welfare Bill, which is slated to replace the Child Protection Act of 1980, is still waiting to be passed into law.

¶12. What are the penalties for traffickers of people for sexual exploitation?

As there is no specific legislation on human trafficking, there are no specific sentences for trafficking for sexual exploitation. Instead, the GOL can apply laws that prohibit kidnapping, forced labor, or sexual abuse.

¶13. Punishment for Labor Trafficking Offenses?

As there is no legislation on human trafficking, there are no specific sentences for trafficking for labor exploitation. Instead, the GOL can apply laws that prohibit kidnapping, forced labor, or sexual abuse.

¶14. What are the penalties for rape or forcible sexual assault?

The minimum penalty for rape or forcible sexual assault is five years and the maximum is death, depending on the nature of the case and the jurisdiction of the magistrate presiding over the case.

¶15. Is prostitution legalized or decriminalized?

Lesotho's legal code does not address prostitution. Prostitution is not, therefore, de jure illegal; however, prostitutes are often arrested for other offenses.

¶16. Has the government prosecuted any cases against traffickers?

As there is no specific legislation on human trafficking, there have been no prosecutions.

¶17. Is there any information or reports of who is behind the trafficking?

There were no official reports during 2007.

¶18. Does the government actively investigate cases on trafficking?

As the case of the Ethiopian woman recounted above in paragraph 3 demonstrates, authorities do actively investigate cases of alleged trafficking.

¶19. Does the government provide any specialized training for government officials in how to recognize, investigate and prosecute instances of trafficking?

No. The GOL inter-ministerial committee and UNESCO have requested that U.S. Embassy Maseru provide resources for such training.

¶20. Does the government cooperate with other governments in the investigation and prosecution of trafficking cases?

There are no known cases of the GOL either asking other governments or being asked by other governments to assist in trafficking investigations or prosecutions.

¶21. Does the government extradite persons who are charged with trafficking in other countries?

There are no known cases of the GOL being requested to extradite persons charged with trafficking to other countries.

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¶22. Is there evidence of government involvement in or tolerance

of trafficking, on a local or institutional level?

No.

¶23. Have any government officials been prosecuted for involvement in trafficking?

No.

¶24. If the country has an identified child sex tourism problem (as source or destination), how many foreign pedophiles has the government prosecuted or deported/extradited to their country of origin?

The country has not been identified as having a child sex tourism problem, and no foreign pedophiles have been identified.

In June 2001, Lesotho submitted to the ILO an instrument of ratification for Convention 182 concerning the worst forms of child labor. The Rights of the Child Convention was ratified in April 1992. The Protocol to Prevent, Suppress, and Punish Trafficking In Persons, especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime is currently under discussion for ratification.

PROTECTION AND ASSISTANCE TO VICTIMS

¶25. Does the government assist victims, for example, by providing temporary to permanent residency status, relief from deportation, shelter and access to legal, medical and psychological services? If so, please explain. Does the country have victim care and victim health care facilities?

The Ministry of Health and Social Welfare and the Lesotho Child Counseling Unit (LCCU) offer help to vulnerable and abused children generally, but it is not specifically geared to trafficking victims. No other assistance to trafficking victims is funded by the government.

¶26. Does the government provide funding or other forms of support to foreign or domestic NGOs for services to victims?

Since there are no NGOs in Lesotho with a focus exclusively on trafficking, the government does not provide such support.

¶27. Do the government's law enforcement and social services personnel have a formal system of identifying victims of trafficking among high-risk persons with whom they come in contact (e.g. foreign persons arrested for prostitution or immigration violations)? Is there a referral process in place, when appropriate, to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to NGO's that provide short-or long-term care?

There are no such processes in place in Lesotho.

¶28. Are the rights of victims respected, or are victims treated as criminals? Are victims detained, jailed, or deported? If detained or jailed, for how long? Are victims fined? Are victims prosecuted for violations of other laws, such as those governing immigration or prostitution?

While the final conclusion of the trafficking case detailed in paragraph 3 involving an Ethiopian woman has not yet been resolved, the Government of Lesotho did accuse both her and those whom she accused of abuse of violations of the Aliens Control Act and the Labor Law. However, the possible trafficking victim has not yet been punished or given any sentence under these statutes.

¶29. Does the government encourage victims to assist in the investigation and prosecution of trafficking? May victims file civil suits or seek legal action against the traffickers? Does anyone impede the victims' access to such legal redress? If a victim is a material witness in a court case against a former employer, is the victim permitted to obtain other employment or to leave the country pending trial proceedings? Is there a

victim restitution program?

The government did interview the possible trafficking victim identified in paragraph 3 and is using her testimony in an ongoing criminal case. There is no victim's restitution program, although the Lesotho Mounted Police Service has actively encouraged those accused of abusing this individual to pay her back wages. There have been no cases of trafficking victims suing their exploiters.

¶30. What kind of protection is the government able to provide for victims and witnesses? Does it provide these protections in

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practice? What type of shelter or services does the government provide? Does it provide shelter or housing benefits to victims or other resources to aid the victims in rebuilding their lives? Where are child victims placed (e.g. in shelters, foster-care, or juvenile justice detention centers).

The government does not provide specific protection or support to trafficking victims. Child victims, however, would be eligible for support from the Ministry of Health and Social Welfare and the Lesotho Child Counseling Unit (LCCU).

¶31. Does the government provide any specialized training for government officials in recognizing trafficking and in the provision of assistance to trafficked victims, including the special needs of trafficked children?

Lesotho provides no such training. An inter-ministerial committee was established under the chairmanship of UNESCO, and such training may be provided by this committee in the future.

¶32. Does the government provide assistance, such as medical aid, shelter, or financial help, to its repatriated nationals who are victims of trafficking?

The government does not offer such services. Foreign donors, however, funded certain local orphanages to build new shelters or expand existing structures.

¶33. Which international organizations or NGOs, if any, work with trafficking victims? What type of services do they provide? What sort of cooperation do they receive from local victims?

World Vision has assisted local NGOs to disseminate trafficking information to the public. Other local NGOs have begun limited public awareness campaigns, but have indicated that a lack of resources hamper their efforts. One local NGO conducted a study of the trafficking situation in 2006, but the results of the study have been dismissed by the government and much of Lesotho's civil society as unscientific and unreliable.

¶34. (U) POC on trafficking: Chris Smith, PD/Econ/Pol Officer,
Tel: 266-22-312-666, email: SmithCM3@state.gov
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